

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authorization: (1) to Replace San Onofre Nuclear Generating Station Unit Nos. 2 & 3 (SONGS 2 & 3) Steam Generators; (2) Establish Ratemaking for Cost Recovery; and (3) Address Other Related Steam Generator Replacement Issues.

Application 04-02-026
(Filed February 27, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING NOTICES OF INTENT
TO CLAIM COMPENSATION**

1. Summary

This ruling addresses notices of intent to claim compensation (NOIs) filed by Aglet Consumer Alliance (Aglet), and The Utility Reform Network (TURN), and California Earth Corps (CEC). As discussed herein, Aglet, TURN, and CEC have met the relevant requirements, including significant financial hardship, and are eligible to claim compensation in this proceeding.

2. Background

Under Pub. Util. Code § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim

compensation.”¹ The first prehearing conference in this proceeding was held on February 27, 2004. All NOIs were timely filed.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b) and identify whether the intervenor is; (1) a participant representing consumers, (2) a representative authorized by a customer, or (3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. If the customer category identified is “a representative authorized by a customer,” the NOI should identify “the residential customer or customers that authorized him to represent that customer.” That identification is needed because this category of customer “connotes a more formal arrangement where a customer, or a group of customers, selects a presumably more skilled person to represent the customers’ views in a proceeding.” (D.98-04-059, pp. 28-30.)

Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied. Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for an award of compensation.

¹ All statutory references are to the Public Utilities Code.

As defined in Section 1802(g), “Significant financial hardship” means that; (1) the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or (2), in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. A finding of significant financial hardship in no way ensures that compensation will be awarded (§ 1804(b)(2)).

3. Aglet

Aglet is an unincorporated nonprofit association organized to represent and advocate the interests of residential and small commercial customers of electric, gas, water, and telephone utilities in California. Aglet represents the specific interests of small customers.² Aglet meets the third definition of customer, as defined in § 1802(b), thus, the comparison standard applies.

Aglet’s members are small residential customers whose individual economic interests in this proceeding are small relative to the costs of participation. In addition, a rebuttable presumption of eligibility exists for Aglet. A finding of significant financial hardship was determined in an Administrative Law Judge’s (ALJ) Ruling issued on April 9, 2003 in A.02-11-017. This proceeding commenced within one year of this finding. Therefore, in accordance with § 1804(b)(1), the rebuttable presumption is applicable to this proceeding.

² All of Aglet’s members are residential utility customers, including customers of PG&E. Approximately 30% of Aglet’s members also operate small businesses with separate energy utility service.

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. Aglet plans to participate actively by conducting discovery, preparing and serving testimony, testifying, cross-examining witnesses, and filing briefs and comments, as required. Aglet plans to focus on the reasonableness of the requested interim relief, the cost-effectiveness of replacing the steam generators, future capital additions, plant useful life, and ratesetting methods.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. Aglet estimated a total projected budget of \$59,120 for this case, based on proposed hourly rates that will be addressed in its request for compensation.

4. TURN

TURN is organized to represent and advocate the interests of consumers of public utility services in California. TURN qualifies as a customer because it is an organization that is authorized by its articles of incorporation to represent the interests of consumers, a portion of whom we have determined to be residential customers.³ TURN meets the third definition of customer, as set forth in § 802(b). Thus, the comparison standard applies.

TURN's members are small residential customers whose individual economic interests in this proceeding are small relative to the costs of

³ TURN provided the relevant portions of its articles of incorporation in its notice of intent in Application (A.) 98-02-017, and A.99-12-024. TURN has approximately 30,000 dues paying members, the majority of which are residential ratepayers. TURN does not poll its members to determine whether they are residents or small businesses, so no percentage split is available.

participation. In addition, a rebuttable presumption of eligibility exists because TURN received a finding of significant financial hardship in an ALJ Ruling issued on March 25, 2003 in A.02-07-050. This proceeding commenced within one year of this finding. Therefore, in accordance with § 1804(b)(1), the rebuttable presumption is applicable.

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. TURN expects to conduct discovery, prepare testimony, cross-examine witnesses, and file briefs and comments, as required. TURN had not identified specific issues at the time the NOI was filed.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. TURN estimated a total projected budget of \$157,125 for this case, based on proposed hourly rates that will be addressed in its request for compensation.

5. CEC

CEC is a non-profit membership organization whose mission is, in part, to protect citizens and the environment from the dangers of nuclear power, and to promote a safe and clean environment.⁴ CEC's has 1,367 members of whom 595 are residential customers residing in SCE's service area. None of CEC's members are business customers within SCE's service area.

Representation of the interests of its residential customer members in this proceeding is consistent with CEC's articles of incorporation and bylaws.

⁴ CEC provided a copy of its articles of incorporation and bylaws.

Therefore, CEC meets the third definition of customer, as set forth in § 1802(b). As a result, the comparison standard applies.

CEC's members in SCE's service area are small residential customers whose individual economic interests in this proceeding are small relative to the costs of participation. Therefore, it satisfies the requirements for financial hardship.

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. CEC plans to pursue discovery, present testimony, participate at hearings, and file briefs and comments, as required. It plans to focus on environmental-related issues in this proceeding.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. CEC estimated total projected combined budget is \$369,500 for this case, based on proposed hourly rates that will be addressed in its request for compensation.

6. Coordination Among Parties

Each party who intends to seek intervenor compensation should ensure that its efforts complement or supplement but do not duplicate the efforts of other parties with similar interests. Parties requesting compensation should discuss amongst themselves and the Commission staff the issues each will address to promote efficiency in their showings.

Merely appearing, stating a position, and cross-examining will not assure compensation. Parties seeking intervenor compensation must demonstrate that their participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the ALJ or the Commission in resolving this proceeding.

Therefore, **IT IS RULED** that:

1. Aglet Consumer Alliance is a customer as that term is defined in § 1802(b) and has met the eligibility requirements of § 1804(a), including the requirement that it establish significant financial hardship, and is found eligible to apply for compensation in this proceeding.

2. The Utility Reform Network (TURN) is a customer as that term is defined in § 1802(b) and has met the eligibility requirements of § 1804(a), including the requirement that it establish significant financial hardship, and TURN is found eligible to apply for compensation in this proceeding.

3. The California Earth Corps (CEC) is a customer as that term is defined in § 1802(b) and has met the eligibility requirements of § 1804(a), including the requirement that it establish significant financial hardship, and CEC is found eligible to apply for compensation in this proceeding.

4. This ruling does not address whether intervenor compensation will actually be granted to any party.

Dated May 20, 2004, at San Francisco, California.

/s/ JEFFREY P. O'DONNELL

Jeffrey P. O'Donnell
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notices of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated May 20, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.